IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 17643 of 2004

Between:

L. Ratnamma, W/o. Ramana,
Lepakshi Village & Mandal, Ananthapur District.

..... PETITIONER

AND

1 The Joint Collector, Ananthapur, Ananthapur District.
2 The Revenue Divisional Officer, Penukonda, Ananthapur District.
3 The Mandal Revenue Officer, Lepakshi, Ananthapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order of the 1st respondent in Rc.No.K4/1057/2004, dated 15-9-2004 and the order of the 2nd respondent in Rc.No.1122/2003 H, dated 28-7-2004 as illegal, arbitrary and without jurisdiction and consequently set-aside the same and direct the respodents to permit the petitioner to continue as Fair Price Shop Dealer of Lepakshi, Lepakshi Mandal, Ananthapur District.

Counsel for the Petitioner : MR. K.SRINIVAS

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.17643 OF 2004

-

ORAL ORDER :

The petitioner is the authorized fair price shop dealer of Lepakshi Village and Mandal, Ananthapur District. Her authorization was suspended by order dated 28-07-2003 pending enquiry into alleged irregularities in distribution of commodities to the cardholders. Against the said order, the petitioner preferred an Appeal before the first respondent – Joint Collector, Ananthapur. The first respondent, having entertained the Appeal, by order dated 15-09-2004 rejected the application for stay and called for the records from the 2nd respondent – Revenue Divisional Officer, Penukonda, Ananthapur District. The grievance of the petitioner in this writ petition is that having initiated the enquiry long back on 28-07-2003, and having suspended the authorization pending enquiry, the respondents failed to conclude the same till now. It is contended that the respondents are not justified in continuing the suspension for such a long period. Hence, this writ petition challenging the order of the Appellate Authority dated 15-09-2004 rejecting the application for stay.

The learned Counsel for the petitioner while relying upon the decision in A.NEELIMA Vs. THE JOINT COLLECTOR, KURNOOL, contended that since the enquiry could not be completed within 90 days, the authorization of the petitioner shall be revoked.

It is to be noted that the abovesaid decision was clarified by a Division Bench

of this Court in JOINT COLLECTOR, KURNOOL Vs. A.NEELIMA holding that though the period of 90 days should ordinarily be sufficient to conclude enquiry, what is reasonable period of suspension will vary from case to case depending upon various factors. The Division Bench also held that the observation of the learned Single Judge in A.NEELIMA'S case (1 supra) was in the context of the case on hand and shall not apply as a general rule. Hence, the decision cited by the learned Counsel for the petitioner is of no assistance.

The learned Counsel further contended that the allegations against the petitioner are all false and baseless and therefore the order of suspension is unwarranted.

Since the statutory appeal preferred by the petitioner against the impugned order is pending, I am not inclined to go into the correctness of the allegations made against the petitioner. Even the order dated 15-09-2004 being an interim order pending the Appeal, the interference of this Court under Article 226 of the Constitution of India is not warranted. However, keeping in view that the enquiry is pending for the past more than an year, instead of directing the 1st respondent to dispose of the Appeal, I deem it appropriate to direct the 2nd respondent – Revenue Divisional Officer, Penukonda, Ananthapur District to complete the enquiry after affording due opportunity to the petitioner and to pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order.

Accordingly, the Writ Petition is disposed of. No costs.

_____

28th October, 2004.

GBS

To

1 The Joint Collector, Ananthapur, Ananthapur District.
2 The Revenue Divisional Officer, Penukonda, Ananthapur District.
3 The Mandal Revenue Officer, Lepakshi, Ananthapur District.4

4.2CCs to G.P. for Civil Supplies, High Court of AP Bldgs, Hyderabad (OUT).

5.2CD copies